3.

THE Reforming Registry,

OR

A *Representation* of the very many mischiefs and Inconveniences which will unavoidably happen by the needless, chargeable, and destructive way

OF

Registries,

Proposed to be erected in every County of *England* and *Wales*, for the Recording of all Deeds, Evidences, Bonds, Bills, and other Incumbrances.

Written in the year 1656, when *Oliver* and the Levelling-Party made it their Design to ruine *Monarchy*, the Laws of the Nation, and the impoverished *Loyal* party; and is now published to prevent the more then a few Evils and sad Consequences which may hereafter be introduced by it.

By *Fabian Philipps*.

Plato *lib.6. de Legibus.*

Omnes eas leges colunt & Innovare formidant in quibus educati sunt, si illæ divina quadam fortuna longis temporibus stabilitæ fuerint.

LONDON,
Printed by *Tho. Newcomb* for the Author, and are to be sold by *Abel Roper* at the sign of the *Sun* over against St *Dunstans*-Church in *Fleet-street*. 1662.

THE

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THE

CHAP. I.

That the Registring or Inrolling of Deeds of Bargain and Sale, whereby an Estate of Freehold doth pass, is provided for by the Statute of 27 Hen. 8. cap. 16. *Wherein it being left to the Peoples choice where to Inrol them, they have rather chosen to do it in* Chancery, *and at* London, *then in the several Counties.*

THe erecting of *Offices* for the *Registring* of *Deeds* and *Conveyances Indented* in every County, by which any *Estate* of *Freehold* or *Inheritance* is to pass, or be conveyed by *Bargain* and *Sale*, will be needless.

For that by the Statute of 27 *H.*8. *c.* 16. which is yet in force and unrepealed, it is already provided for.

And being ever since (now almost One hundred and fifty years ago) left to the Peoples liberty, Whether they will Inrol with the *Clerk* of the *Peace* in every County, or in the *Chancery* and Courts of *Record* at *Westminster*.

They have so much liked of the better and more proper way of Inrolling in *Chancery*, being the *Officina Justiciæ* of the Nation, the *Repository* of most of the *Records* of it; and into which, many of the greatest concernment, are by *Law* and several *Acts* of *Parliament* certified, and disliked the other; as there is not one *Deed* or *Indenture* of that nature, for every Hundred which are in the *Chancery*, Inrolled in the Courts of *Upper Bench*, *Common Pleas* and *Exchequer*, by vertue of that Statute.

And not one almost in a year Inrolled with the *Clerk* of the Peace of every County where the Lands do lie, either because where it was done in the proper County, it was by that Statute appointed to be done

by

by the *Custos Rotulorum*, and two *Justices* of the *Peace* of the County, and the *Clerk* of the *Peace*, or two of them at the least, whereof the *Clerk* of the *Peace* to be one; who by their distances or remote Habitations, were not often or easily to be found or got together, or that the people were not so willing to trust their *Deeds* or *Evidences*, or the *Records* thereof, with the *Clerks* of the *Peace*, as they are with an Officer of Trust in *Chancery*; which being the *Registry* of the Supream Authority, is a Court always open, and kept in a known place of strength and security.

And was very long before in use and practice amongst them, for the more sure keeping and memory of their *Deeds* and *Evidences*, as *Grants* and *Releases* for Lands, and the like, amongst the *Records* of their *Kings* and *Supream Magistrates*, where they thought them safest, as may appear by the close *Rolls* in *Chancery*, ever since the raign of King *John*; and so frequently in the raign of King *Henry* the Seventh, being forty years before the making of the said Statute of 27 H. 8. as

there

there are many *Deeds* of *Bargain* and *Sale* of *Lands*, *Releases* of *Right* and *Title* to *Lands*, *Deeds* of *Gift*, or *Barguins* and *Sales* of *Goods* and *Chattels*, *Bonds* for payment of Money, *Acquittances* for Money paid, *Letters* of *Attorney*, and *Agreements* betwixt private persons, to be seen Recorded and Inrolled in the close Rolls of 8 *H.* 7. with the now usual *Form* or *Memorandums*, that the Parties acknowledging, did come into the *Chancery* and acknowledge them, *&c.*

And which was anciently held to be so much assistant, and contributing to the welbeing and preservation of Mens Deeds, by *Inrollments*, or *Records*, or *Exemplifications* made thereof, as it was in 20 *E.* 1. adjudged, That if a *Deed* be shewed in Court, or be in the custody thereof, and the *Seal* be by mischance broken off, the Court shall Inroll the *Deed* for the avail of the Party:

Cook 2 *part. Institutes* 676. *Hill.* 20 *E.* 1. *in Banco Rot.* 100. *Somerset.*

Which is not onely an evident Demonstration of the Peoples long approving of the one, and disallowing of the other; but of the ease and benefit which they

they have had by *Inrolling* of their *Deeds* in *Chancery*, and the Courts at *London*.

And therefore every mans private *Deeds* and *Conveyances*, being to take their *Original* and *Principal* force from the Parties consent, and contract, and the confirmation and power which the *Laws* of *God*, *Nature*, and *Nations*, and the *Common* and *Statute Laws* of this *Nation* hath allowed them, in making them to be of force and valid.

The *Act* of *Parliament* of 27 *H.* 8. 16. for *Inrolling* of *Deeds* as aforesaid, being made in the same *Parliament* when the Statute of 27 *Hen.* 8. 10. for transferring of *Uses* into *Possession*, was *Enacted*, did in the supplying of many defects in *Deeds* of *Bargain* and *Sale*, of and concerning *Freehold* and *Inheritance*, and the want of *Livery*, and *Seisin*, and *Attornment*.

Not forbid or take away the use and force of *Fines* and *Recoveries*, *Leases* with *Releases*, and *Feoffments* with *Livery* and *Seisin*, which in the extent and validity thereof, are far better Assurances; but onely ordain, That all *Deeds* whereby *Estates* of *Inheritances* or *Freehold*, should pass or

be

or be altered, or changed from one to another, by way of *Bargain* and *Sale*, ſhould not be good, unleſs they ſhould be Indented and Inrolled, as that *Act* appointed; and reſtraining onely the execution and effect thereof, to the *Inrolment* within the time prefixed, did leave the people to Inrol them where it might ſeem beſt, or their own conveniences perſwade them. Wherefore an *Inforced Registry* or *Inrolment* of all ſuch *Deeds* in the proper *Counties*, if it ſhould keep within the bounds of that *Act*, and onely injoyn *Inrolments* of *Deeds* by *Indenture*, where *Eſtates* of *Freehold* and *Inheritance* are to paſs by way of *Bargain* and *Sale*, will unavoidably produce many *Inconveniences*.

CHAP. II.

The inconveniencies of an inforced Regiſtry *of ſuch* Deeds *in the proper Counties.*

§. 1. THey will be illiterately, careleſly, and ill-favoredly *Regiſtred*, and kept in the proper Counties, if either the pay or number of them, ſhall not come up to the

them, or receive no other or greater Fees then are allowed by that Statute for *Inrollments.*

As it hath demonstrably already happned in the taking and inrolling of *Statutes Merchant*, by the *Majors* of the *Staple* in all Cities, Burroughs, and good Towns, and their Officers thereunto appointed, by vertue of the *Statutes* or *Acts* of *Parliament* of *Acton Burnel* in 11 *E.*1. and the Statute *de Mercatoribus* in 13 *E.*1. which have since the erecting of the Statute Office at *London*, by the Statute of 23 H.8. 6. to attend the Lord Cheif Justices of the Court of *Upper Bench*, or *Commen Pleas*; and in their absence, the *Major* of the *Staple* at *Westminster*, and *Recorder* of *London*: For acknowledging of Statutes for Debts have been so much disused, and the course of *Statutes Merchant* which are yet in force for Merchandise so neglected, as there are above a hundred such Statutes entred, to or for every one *Statute Merchant*: And whereas the *Clerk* of the *Statutes*, who was by that *Act* of *Parliament* ordered to reside at *London*, doth fairly

and orderly enter and keep his *Books* and *Records*, and after certain years, lodg and lay them up for safety in the Tower of *London*, It will upon search and inquiry appear, that notwithstanding every *Statute*, whether for Merchandise or otherwise, is to be duly Inrolled by the *Clerks* or *Officers*, upon pain of forfeiting of Twenty pounds for every *Statute* not entred or Inrolled, there can be found very few of the *Rolls* or *Books* of the *Statutes Merchant* since 23 *H.*8. and none at all of those that were taken and Inrolled in Two hundred years before.

The difference betwixt the now *Statute Office*, which is inperpetual succession to such a capital City, and superior *Courts*, as the City of *London*, and the Courts of *Upper Bench* and *Common Pleas*, and annexed as it were unto them, and the *Town-Clerks* or *Majors*, or *Constables* of the *Staple* in the other Cities and Corporations, which do so often change, and are by election, as they become little more then as private persons, giving us the reason why those *Writings* or *Records* in their custody, coming afterwards

wards through ſo many changes, to ſo many ſeveral hands as they do, can no way, as it ſeems, eſcape imbezelling. We may well enough believe, that the ſame *fate* may attend theſe Country *Regiſters*, if they ſhall not be made to be as a *Court of Record*, and in perpetual Succeſſion; and if they ſhall be made to be as ſo many *Judicatures* and *Courts of Record*, will be the cauſe of more inconveniences to the people, then the loſs and imbezeling of their *Records* or *Inrollments*, can come unto.

The City of *London* which did uſe to Inroll ſuch *Deeds* in the *Huſtings*, and divers other Cities, Boroughs, and Towns Corporate, who did uſe to do the like, and had therefore their Rights expreſly ſaved by the *Proviſo* of that *Act* of *Anno* 27 *Henry* the Eight for *Inrollments*, and that it ſhould not extend to any *Manors*, *Lands*, *Tenements*, or *Hereditaments*, within the ſaid Cities, Boroughs, or Towns Corporate; for that they did anciently, and before the making of that *Act*, uſe to Inroll ſuch *Deeds*, will by theſe new *Regiſtries*, without any forfeiture, or §. 2.

cause given to loose them, be deprived of those their very ancient *Rights* and *Liberties*.

§ 3. Such a constrained way of *Registring* of *Deeds* of *Bargain* and *Sale*, which concern onely Estates of *Freehold* and *Inheritance*, will be very inconvenient to *Purchasors* (who most commonly do reside at or near *London*, or Trade or come thither, where the richest and most moneyed men and *Purchasors* amongst the people are to be found; and whose *Inhabitants* or near dwellers, do amount to almost the one half of the *Commonwealth*, and added to such as upon Merchandise, or other occasions do come thither, and pass to and fro from *Ireland*, *Scotland*, and other Foreign parts, will make up in number as many as the whole people of the *Nation*,) and be not a little prejudicial to such also as live in the *Countreys* more remote; who for any thing of value, do usually, either come themselves on purpose to *London*, or employ their *Attorneys* or *Lawyers* to procure their *Conveyances* to be there made, where the best of *Lawyers*, and most

variety

variety are most easily to be found and advised withal in the *Term* times) to travel or send to those several *Counties* where the Lands do lie, to have their *Deeds* Inrolled, or for such as dwell and purchase in remote *Counties*, either to content themselves at home with such *Counsel* or *Lawyers* which the *Country* affords, and adventure their Estates and Security upon it, or go on purpose or send to *London* to have their *Conveyances* made; and when they are brought home, send to the *Shire-Town* to finde the *Register*, or some before whom to acknowledge the *Deed*, which may happen to be many miles distant from him; and for them that buy in *London*, to be at the charge to carry those that do sell and live as far as *Yorkshire*, or other remote places, or make their bargain in *London*, for Lands lying in *Wales*, or the West part of *England*, into that Country where the Lands do lie.

And send or travel to Inroll a *Deed* for every parcel of Land in its several *County*, the Lands therein sometimes extending into three or four *Counties*, and many § 4.

many times into more then one, when as now one uninconvenient charge to Inroll it at *London*, will serve for Lands in all the Counties mentioned in the same Deed.

§.5. Or upon any Suit or occasion at *London* or *Westminster* Hall, where all the Suits and Actions of concernment are, amongst many other businesses most commonly and commodiously dispatched at one and the same time by the *Nobility*, *Gentry*, *Merchants*, *Tradesmen*, and *Seamen* of the whole *Nation*, and the generality of all the people (except *Cottagers* and day *Laborers*, and the more *rustick* part of the *Yeomandry* or *Husbandmen*) and do as so many several lines drawn from the *circumference*, meet in the *Term* times or upon other occasions at *London* in one and the same *center*, to travel or send backward and forward; and perhaps to several places at great charges and distances to take Copies of *Deeds* or *Records*, where now they can have them all in one place, or within little more then a mile of it.

§.6. The *Records* or *Registries* which are

are to be as mens publick *evidences* when the private are loſt, will not in times of War or trouble (which moſt Nations at one time or other, do meet with) be at all or ſo ſafely kept as the Records are at *London*, being the cheif City of the *Nation*; and as the *heart* thereof, the *reſidence* of the *Supream Authority*, and ſuch a ſtrength, as is not eaſie to be forced or taken, and moſt likely to be the laſt place that ſhall ſuffer by any *Foreign* or *Inteſtine* Troubles, and which hath hitherto in moſt of our unhappy Civil Wars, for ſeveral ages preſerved the Publick Records and Evidences of the people, in the Tower of *London*, Chappel of the *Rolls* and *Treaſuries* at *Weſtminſter*; places not onely ſtrongly built with ſtone, but ſo carefully looked unto, as no Candles or Fire are permitted to be uſed in the ſame.

There being always likely to be a vaſt difference between the ſafe keeping of *Records* and *Evidences* in a City, that hath above Two hundred thouſand men, with a *Magazin*, and ſtrong hold, and more Ships and furniture for ſhipping to guard them, then

then all the Shire-Towns, Ports, and Havens of the reſt of the *Nation* can make, and furniſh out, if all were put together, and a Shire-Town which hath neither Walls, nor ſtrength, or any conſiderable number of people to defend them, there being of Fifty and two Shire-Towns, but Twenty two Cities and Walled Towns, and thoſe ſo weak and unfortified, as *Hull* onely and *Briſtol*, and ſome few excepted, every *Rebel-rout* or *Inſurrection* may plunder or deſtroy them.

The conſideration whereof did heretofore put the *Kings* and *Supream Magiſtrates* of *England*, in minde to get from time to time, as much as they could into their care and cuſtody, the *Records* of the *Iters*, *Judges*, *Circuits*, the *Hundred* and *Petty Court Rolls*, perambulations of Foreſts, being the out-lying and ſcattered Records of the *Nation*, and all that could be ſaved and got together, from the rage and troubles of former times, and the careleſs keeping of ſuch as had the charge of them, and put them into ſafe cuſtody in the Tower of *London*, or Treaſuries for

Records

Records at *Westminster*; and to that end, from time to time did send their Writs to command the bringing in of the *Records* of several *Courts* into the *Treasury*, which was usually done by *Indentures*, under the hands of the *Judges* that brought them in, and the *Officers* who received them, and made allowances out of the *Exchequer*, for the *Kalendring* and wel-ordering of them.

The having of which *Publick Records*, *Memorials*, and *Evidences*, as so many *Jewels* of inestimable value (wherein our *Laws* and *Liberties*, and all that we have concerning our *Estates*, *Lives*, *Progenitors*, and *Predecessors* do reside, and are Recorded) so safely preserved for the help and instruction of our selves and posterities, being justly accounted to be a *Blessing*.

May teach or give us to understand, what an evil condition the people of *England* would have been in, if they had lost those *Cabinets* and *Jewels* of their *Estates* and *Memories*, or were but inforced, if they could be found again, to send from as far as the people of *Scotland* do now with

great trouble and expences, from all parts of their *Nation* into *England*, to the Tower of *London*, to ſearch and take Copies of the *Evidences* of their *Eſtates* or *Reconcilers* of their Controverſies, or how eaſily they might have been loſt, if in *Wat Tylers*, *Jack Cades* or *Ketts* popular Frenzies, they had been kept either in *Kent* or *Southwark*, or ſuch like open and unfortified places.

Or what had become of them, if they had lain diſperſedly in the Shire-Towns, in our late haraſſing and deſtroying *Civil Wars*.

And that by ſuch, or ſome other diſaſters, we might have had as bad an accompt of them, as are now to be had of all the *Records* and *Court Rolls* of the *Sheriffs* Turns, *County* and *Hundred* Courts, *Courts* Leet, or *Courts* Baron, and *Juſtices* in Eyre, ſince the time of *William* the Conqueror, and K. *Henry* the Second: When as none of the *Sheriffs* Turns, *County* and *Hundred* Courts, can ſhew us any *Records* of above Twenty years ſtanding, if ſo much, the proceedings therein, being

being either not entred at all, as they ſhould be, or not well kept or ordered: And the other Inferior Courts not far above One hundred years, where any care hath been taken to keep them, and many times not ſo much: And for one that exceeds One hundred years, there are ten which do not reach to half a hundred.

And that thoſe *Records* of the petty and inferior Courts of Antient times, which are now to be found in the *Treaſuries*, and amongſt the Records at *London* and *Weſtminſter*, do not amount to any more then to about the Ten thouſandth part of thoſe Country and inferior Courts Records, which are loſt and not to be found; and that thoſe that are to be ſeen, are but as ſome pitiful ſcraps and torn pieces of what have been reſcued and taken out of the Jaws of Time and Antiquity.

Such an inforcement to *Regiſter* all ſuch *Deeds* in the proper Counties, will without any neceſſity of *War* or *Publick Safety*, take away the *Common Right* and *Liberty*, which *God* and *Nature*, and the *Laws* of the *Land*, have given to every man; and ſo far exceed §. 7.

Monopolies, which never yet reached to mens private Evidences, as that it will too much resemble the King of *Spain*'s Paper, which every man in *Spain* is bound to buy at a rate, to write his *Contracts* and *Assurances* upon,

§ 8. Will be as a selling of *Justice* contrary to *Magna Charta*, the *Petition of Right*, and the *Liberties* of the *People*, who have of late as well as formerly fought for them, with the hazard and loss of so many of their lives and estates; and which the Army have so often by publick and private *Remonstrances*, called *God* and *Men* to witness, they would be carefull to preserve for them; and if all *Deeds* of *Bargain* and *Sale Registred*, shall be enacted to have the force and effect of *Fines* with *Proclamations* and *Recoveries*, and Bar as they do.

CHAP. III.

The inconveniencies if all Deeds *of* Bargain *and* Sale, *shall be Enacted to have the force and effect of* Fines *with Proclamations, or of* Recoveries, *and to* Bar *as they do.*

§. 9. THat most ancient and strongest kinde of *Assurance*, for conveying and passing of Lands from one man to another, by an undoubted and irrevocable Title, known

to

to be in use long before, and ever since the *Conquest*; and which, without any strained guess or conjecture, and with more probability for it, then against it, may to such as know that our *Fines* are *Recorded* as an Agreement betwixt the Parties acknowledged in the Court of *Common Pleas*, before the *Judges*, *Et multis aliis fidelibus ibi præsentibus*, and many other good people there present; seem either to be deduced, or very much to resemble that manner of assurance or conveyance which *Abraham* had of *Ephron* the *Hittite*, when he bought of him the Field of *Ephron* for a burying place for himself, and his wife *Sarah*; where after the Agreement or Bargain made for it, the holy *Scripture* saith Gen.23. 18.
it was made sure *To Abraham for a possession in the presence of the children of Heth, before all that went in at the Gates of the City*, (which was their Court of Justice) will be taken away, to give place to that, will be a great deal dearer, and a worse assurance then a *Fine*; which as to the *Indentures* of *Chyrograph* (if there were no other necessary foregoing Writs and Solemnities

lemnities to make it legal, and prevent counterfeiting) would amount but unto about Five or Six ſhillings.

§. 10. And (if it ſhall be endeavored to be made equal with a *Fine*, with *Proclamations*, and as ſafe from *Forgeries*, and be a bar as ſuch *Fines* are, ſhould be read and *proclaimed*, and hung up in *Tables* as *Fines* are, to be read at the *Aſſizes*, in the County where the Land lies, and be alſo hung up in *Tables* at *Weſtminſter-Hall*, and read and *proclaimed* in open *Court*, or ſome eminent place, in four Terms after the *Ingroſſing* or acknowledging of it; to the end, that ſuch as are for ever to be concluded by it, may not pretend ignorance.

§. 11. And yet if that were done, there cannot be in a *Deed* inrolled, reaſonably ſuppoſed, That *Ground* or *Reaſon*, which beſides the parties agreement and conſent, appears to be in a *Fine* or *Recovery*, *viz.* That it is done upon a *Demand*, *Suit* or *Action*, and *Interpleading* in the *Court* of *Common Pleas*, whereby the parties are for ever bound and debarred to ſay, It was not ſo

by

by the ſtrength and power of a double *Eſtoppel*, in ſo high a Court of *Record* againſt the *Record*, whereof there can be no *Averment*.

For all our former *Acts* of *Parliament* do in their Preambles, which are to be as the *Keys* to open and expound the *minde* and intention of the *Makers*, and to bring the *Act* it ſelf unto a reaſonable *Expoſition*, moſt commonly (if the *Reaſon* it ſelf were not obvious) not onely take care to expreſs and declare the *reaſon* and *cauſe*, of that which was commanded or forbidden, but made every thing that was to be done in order, to ſuch *prohibition* or *command*, to carry and bring along his *reaſon* with it, whereby to make known its *conſiſtence* and *agreeableneſs* with right *Reaſon*.

Which being the *ground*, *foundation*, and *ſupport* of all *Laws*, is ſo every where viſible in our *Laws*, (where time hath not made ſome *alteration* of that which was before the *baſis* and *reaſon* of it) as every thing therein, if not miſtaken by *ignorance*, or ſuch as make too much haſte to *cenſure* or *condemn* it, before it be heard or under-

understood, may upon due *examination*, (some small or very inconsiderable defects perhaps or redundancies, which the greatest perfections under the Sun, are to be allowed onely excepted) not onely justifie it self, but condemn those that have been too busie in finding fault with it, it being a never failing *principle* in the *Laws*, that *Ratio Legis* is *Anima Legis*, and gives life and being to it.

§ 12. And therefore it will be a dangerous *president*, and of ill consequence, that *Acts* or things in *Law*, grounded upon several *Reasons*, and very much differing in the *Magis* and *Minus*, or extent thereof, should be made to be of one and the same *operation* and *effect*; As that a *Grant* by Copy of *Court-Roll* should pass an estate of *Freehold* as well as *Copihold*, a *Fine* levied by *Tenant* in *Tail*, bar a stranger in *Remainder*, as immediately as it doth the *issue* of his *body*; or that a *General Plea* or *Issue*, Not guilty (the manifold inconveniences whereof, have all over *England* been sufficiently experimented) should carry and amount to as much, as

as all other more legal *Pleas* and *Issues*; or that any thing of an *inferior* consideration shall be of the same effect, as a *superior* or more weighty, As that the sign *Manual* or *Privy Seal* of the *Supream Magistrate*, shall be as binding as the *Great Seal* of *England*; that an Interlocutory sentence shall be as much as a *Decree*, *Sentence*, or *Judgment*, upon a full hearing or debate; that an *acquittance* without Hand and Seal, or words of Release of all *Actions*, shall be of the force of a *Release* of all *Actions* under Hand and Seal; a *Lease* Parol, or by word of mouth, or a *Deed* Poll should be as much as by *Indenture*; that a contract or promise of *Marriage*, before two witnesses, shall be as much as a *Marriage* duly solemnized; and that things said or spoken without *Oath*, shall be as much a-upon *Oath*; All which would be against that right *Reason* which do usually accompany our *Laws*.

Women Covert, who upon levying of *Fines*, were to be examined, whether they did freely consent, or do it, must now sign and seal, the *Deed* to be § 13.

Inrolled as well as their Husbands, if *Dower* be to be barred, and examined as they were wont to be upon levying of *Fines*; for by *Law* they are not barred by a *Deed* Inrolled, in regard of their *Coverture*.

§ 14. *Deeds* of Bargain and Sale, covinously or deceitfully gained, by greedy and insinuating oppressors in taking advantages, and working upon mens necessities, or gotten by cheating *Gamesters* of some yong *Gentlemen*, who many times loose their Lands before they finde their wits, or some fawning *Cormorant* Citizens who gets into such witless mens Estates, upon kindly supplying their wants with a *Knavish* bargain of *Beaver-Hats*, St. *Omers* Onions, *Brown Paper*, *Pack-thred*, and such like *Trash*, or loosing Commodities, shall have no remedy or relief in *Chancery* allowed them as formerly. If that such *Deeds* inrolled shall have the force of *Fines* and *Recoveries* for that against *Fines* and *Nonclaims* and *Bars* by *Recoveries*, there can be no releif to be had in *Conscience* or *Equity*, because it might otherwise be a means

Doctor and *Student* 25. and *Lib.* 1. *cap.* 1.

means to impeach and open a gap, to break into all other Mens Estates and Conveyances. So as that which by these *Proposals* is pretended to be a way to prevent *deceipt*, will in such, or the like case, become the greatest *fortifier* and *defender* of it.

Such a transferring of the power of *Fines* and *Recoveries* into *Registred Deeds*, may hereafter much prejudice and terrifie such, as by this new way of *Registring* shall have deserted the suing out of *Fines* and *Recoveries*. If another *Parliament*, either in this or any future ages shall happen to repeal, or take it away, or the Inrolments of *Deeds* or *Records* thereof, lying in so many dispersed and unsafe places, should happen to be lost, and subject them and their Estates to all manner of *Claims* and *Controversies*, which they would otherwise have been freed of, if they had been permitted to make use of the old and safe way of *Fines* and *Recoveries*; which in all the *Commotions* of *people* or *Petitions* of *Parliaments*, were never yet found *fault* with, or *desired* to be taken away. §. 15.

§ 16. There will be a great difference betwixt *Fines* and *Deeds* inrolled, not onely in the manner of passing and acknowledging of them, but in the *benefits*, *priviledges*, and *safety*, which as inseparable *Concomitants* do attend *Fines*, but cannot by any *Rule* of *Right Reason*, be *simul & semel*, or at all put over to *Deeds* inrolled or lodged in them, for *Fines* which are to be acknowledged in Court, before two *Judges*, at the least, or out of the Court, before the *Lord Chief Justice* of the *Court* of *Common Pleas*; and if by *Commission*, which is to be signed by the *Lord Chancellor*, or *Lord Keeper*, and *Lord Chief Justice* of the Court of *Common Pleas*, or by some of the *Justices* of *Assise* or the *Circuit* where the Land lieth, ought to be directed to men of *quality* and *conscience*, and expert in the *Laws* of the Land, one whereof is to be a Knight, (the *Writs* of *Covenant* whereupon they are grounded, passing the Great Seal of *England*, and so many sworn *Officers* and *Judges* hands and perusals,) and have a duplicate or double *Indenture* of *Chyrograph* so cut,

one

one in another, as one must necessarily discover the other, if there be any variance or falsification in them, and so many places and *Offices* recording them, cannot be *counterfeited*, or if they should, will easily be found out; but *Deeds* so to be Registred and Inrolled, which shall not be attended with so many cares and cautions, may easily be forged, counterfeited, or antidated, and bring with them more *deceits* and *incumbrances*, then they do pretend to prevent; and fall into all the inconveniences, questions and debates, which *Fines* and *Recoveries*, being the grand and common *Assurances* of the Land: for Lands betwixt party and party, have by those many Laws and Cases, which have been adjudged to indulge and protect them, hitherto avoided and escaped.

The same power and force which are granted to *Fines*, cannot with *justice* or *convenience*, be given to *Deeds* inrolled against the Bargainor or his Heirs, or those that may claim the Lands, because in *Deeds* there are most commonly reciprocal *Covenants*, and some things to be performed on the §. 17.

the *Bargainees* part, which may demand equity or performance, and many times no words of *Warranty* or *Release*; but in a *Fine*, there is onely a *Grant*, *Release*, and *Covenant*, to *Warrant* on the part of the *Cognisor*, or he which levieth it.

§. 18. And if taken away from the people, will loose the Supreme Magistrate and his *Revenue*, Ten or twenty thousand pounds *per annum*; which the people having the benefit of such an ancient and sure way of *conveyance*, *Which had in* 19 E. 1. *now almost Four hundred years ago, so great and due respect given unto it, as it was by a Parliament held in that year, declared, That the Order of Law will not suffer them to be levied without a Writ Original; and that the cause of the Solemnities then used in Fines, was because a Fine was so high a Bar, of so great force, and so strong a nature in it self*: And hath been setled, confirmed, and brought to the perfection it now enjoys, by fourteen or fifteen *Acts* of *Parliament*, and for the greatness of the *Assurance*, and the *peace* and *quiet* which it bringeth with it, justly said to be *Finis fructus*

Plowdens Comment. 357, 358.

fructus exitus & effectus Legis; the end, fruit, and effect of the *Law*, and a *Fine*, because it doth *Finem litibus imponere* put an end to most Suits or Controversies can arise against it, did never as yet, or have in all their Petitions in *Parliament*, which have been since or before, concerning other *grievances*, so much as complained of or grudged. And though they had no cause or reason to complain of *Fines* and *Recoveries*, will not like so well as the *Proposers*. To be compelled to *Register* all their former *Deeds* or *Evidences*, if but for Ten or twenty years past, under a Constraint or Penalty to be otherwise of no effect, or not so *available* in the *Law* as they would have been formerly.

CHAP. IV.

Of the Registring *of all Mens former* Deeds *or other* Evidences, *if but for Ten or twenty years past, under a Penalty to be, otherwise of no effect, or less then they would formerly have been.*

FOr that were to make any *Law* which should be made to such a purpose, to be guilty of a *retrospection*, or *looking backwards* in its *commands* or *prohibitions*, and the penalties ensuing thereupon, which can have no rule or pattern from the *Laws* §. 19.

or

or *Word of God*, who in the making of his most righteous *Laws*, made them to binde, and look onely to the future: And when he might do what he would with his *Clay*, not onely commanded those *Laws* to be written very *plainly*, but was so willing to pardon sins of *Ignorance*, as he ordained a Sacrifice to be made for them. And when in the forbidding the Children of *Israel* to marry within certain degrees or nearness of Blood, under the penalty of death, or cutting off from the people, he had said, *After the doings of the Land of Egypt, wherein ye dwelt, shall ye not do.* Did not either punish or call them to account for any former marriages contrary thereunto.

Deut 27. 8.
Levit. 4.
Levit. 18.

Moses therefore who understood the minde of *God*, concerning those Laws which he had received from him, better then all other *Legislators* or *Law-givers* which have been since, (the onely *Son* of *God* excepted) being to die, commanded them to be often read unto the people, that they might hear and observe them.

The *Wedg* of *Gold*, and *Shekels* of *Silver*, and the *Babilonish* Garments, for which

Josh. 8.

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The *Wedg* of *Gold*, and *Shekels* of *Silver*, and the *Babilonish* Garments, for which

Josh. 8.

which *Achan* was ſtoned to death, by all the people, had not been the *accurſed* things, but the lawful ſpoils of War, if the foregoing *prohibition* had not made them to be ſo. 1 Sam. 14. 15.

Nor had *Saul* ſo grievouſly, or at all offended, or been puniſhed for ſparing *Agag*, being his priſoner and captive in War, if the command or charge of God before hand had not made it to be an offence.

Which our *Engliſh Laws* have ſo much imitated. As the Act of Parliament of 36 E. 3. ordering all pleadings to be in *Engliſh* and Inrolled in *Latin*, and not in *French*, as they had been formerly, did neither order or intend, that all the Pleas for the years before, ſhould be entred over again, and made to be in *Latin*.

The Statute of 23 H. 8. *cap.* 6. for acknowledging of *Statutes* or *Recogniſances* for Debts, hath an expreſs *ſaving* for *Recogniſances taken before the Major and Conſtables of the Staple*, *though they did not concern Merchandiſe*; which was the evil ſought to be remedied.

The Statute of 27 H. 8. *cap.* 10. for transferring of uses in possession, making great alterations in Mens Estates, did after many savings and provisoes, ordain, *That all lawful Wills and Testaments, made or to be made, before the first day of* May, 1536. *should be of the same force as they were forty years before, notwithstanding the said Act; and that Actions then depending, should not be abated or discharged, by reason of the executing of any Estate by Authority of the said Act.*

The *Act* for *Inrollments* of *Deeds* of *Bargain* and *Sale* made in the same year, and *Parliament*, was ordained not to take effect, until after the last day of *July*, which should be in the said year.

The Statute of 5 & 6 E. 6. *c.* 16. forbidding the buying and selling of Offices, concerning Administration of *Justice*, doth expressly provide, *That all Acts or things before done in the execution of such Offices, should be good until the parties offending, contrary to that Act, be removed out of their places, and that all Bargains and Contracts made for Offices, before the first day*

day of March, *then next coming, ſhould be in ſuch force and effect, as if that Act had never been made.*

And all our *Acts* of *Parliament* which were not private, or by way of pardon for Offences paſt, have until the *Act* of *Attainder* of the Earl of *Strafford*, in *Anno* 1641. Wherein there was a Proviſo, That it ſhould not afterwards be made or taken to be a precedent, been made and ordained for the future; and in all their Orders and Prohibitions, looking forward, and for the time to come, and not ſeldom, prefixing a day or time when the Act ſhould begin to take effect. And for fear leaſt any particular ſhould be damaged in their intentions, and care of the *general*, have beſides a ſaving of other mens rights, been loaded with as many *Proviſoes* to that purpoſe, as any their cares or *forecaſt* could poſſibly put them in minde of.

Wherin we may hope that our no fooliſh *Anceſtors* (though ſome of their ingrate, and leſs wiſe *Poſterity*, have been pleaſed to think them otherwiſe) did neither erre in following the opinion of Saint *Paul*,

Rom. 3. 20. Chap. 7. 7. *That by the Law is the knowledge of sin, and we had not known sins, but by the Law.* And the guidance of *Gods* Holy Laws and Ordinances, or that which the Light of Nature, and Laws of all other Nations (where *Justice* and *Reason* had any acquaintance) could as well as their own, instruct them.

Cicero Philip. 11. *Vida* lib. 2. de dignitat. Reipub.

For if *Laws* which are rightly and generally defined to be *Præcepta quædam à recta ratione tracta & deducta honesta imperantia & turpia prohibentia*, certain Rules and Precepts drawn and deduced from right *reason*, commanding good and honest things to be done, and forbidding the contrary, should like *Janus* (whose retrospection was but feigned, as a *loving farewel* to the year past) look backward as well as forward, and claw and fall upon all that was past, and behinde them, they would as to what is past, cease to be Laws; and instead of preventing *evil*, and doing good, prove to be no better then *snares* to catch and surprise men in their past and *innocent actions*, before such *Laws* came to be known, or made against them, make the

the time past, out of a time to come, and be as to what is past, or had been done before, as *Laws* altogether *impossible* to be kept, and as never known or published; and the punishments or evils hapning upon them, as inflicted for Offences before any Law was made, to make or declare them to be so; and be in the *birth* and making of them, like some fierce and *pitiless winds*, broke loose into the world, which with some benefit they bring along with them, in other things do at the same time, break, overturn, and throw down all that are near or about them, contrary to the care and love which *God* himself was pleased to shew to his people *Israel*, in the making and giving of his Laws; to whom intending to deliver his *Laws* with great *terrors* and *majesty* in Mount *Sinai*, to the end they might hear and obey them, he did *three days* before, give them warning to set bounds before them, and take heed that they came not near the *Mountain*, least they or their Cattle should perish or be consumed. And contrary to the rules of all the *Intellect* and *right reason*, which *God* hath

Exod. 20. 12, 13.

hath hitherto bleſſed the *World* withal; and the *rule* and *reaſon* of all the *Laws* of *God*, *Nature*, and *Nations*, *Civil*, *Common*, or *Cannon*.

But if there were nothing of ill example or conſequence which might happen by this propoſed retroſpection in the making of other *Laws*.

§ 20. Such an inforced *Retroſpection* of *Deeds* and *Evidences* already paſt and executed, which could never yet deſerve to have any entertainment, or to be ſo much as heard or mentioned in *Senates*, will bring a very great charge and trouble to the people to *Regiſter* their former *Deeds* and *Evidences*, which were before as ſtrong and valid, as the *Law* and the beſt *Council* they could get, could make them; and to or from which, ſuch *Regiſtring* by *Act* of *Parliament*; without a judicial examination of the *cauſe*, and hearing of the parties concerned on both ſides, can neither adde or diminiſh.

§. 21. Or if they ſhall be pretended to be onely inforced to be *Regiſtred*, to prevent *frauds* and *inconveniences* for the future, by

by former *Bargains* or *Dispositions* (which do so seldom happen to *Purchasers* and *Money-lenders*, as there is not one in every *thousand* which comes to any loss or mischances by them, will as to *Fines* and *Recoveries*, *Judgments*, *Statutes*, *Recognisances*, and many *Deeds* which are Inrolled (without some of which, no Land, or almost Bargain of consequence, doth pass from one man to another ;) *Actum agere*, and altogether needless for that, they being the greatest incumbrances to be feared, are better *Registred* already, then they are like to be by the *Proposers*.

And for such *Deeds* or *Evidences* which the owners were unwilling to be at the charge of *Inrolling*, as not being necessary ; they are not like to bring any disturbance or inconveniencies to *Purchasors*, who by the *Fines* and *Recoveries* onely, which in every *purchase* or *mortgage* of any considerable value are sure not to be omitted, may if nothing else were to be found upon *Record* (though very many *Deeds* of *Uses*, *Trusts*, *Intails*, *Releases*, and of other special concernments, are for preservation

vation most commonly to be found Inrolled) easily understand there hath been some former *disposition* or *alteration* of the Estate, which is to be suspected or looked after.

And for the greatest part of them, are so little wanting to themselves in their *purchases* or *lending* out *moneys*, as they do not onely then and at all other times, before hand, summon in and bespeak all the *cares*, *diligences*, and *jealousies*, possible of themselves, and their *Counsel* learned; but make out all manner of *Inquiries* and *Scrutinies*, concerning the title and value of the Lands; call for and peruse the *Sellers* or *Borrowers Deeds* or *Evidences*; demand and require for *Assurance*, *Fines*, *Recoveries*, *Feoffments*, *Warranties*, *Statutes*, *Recognisances*, or *Judgments*, and *Counter-Securities* for performance of *Covenants*; and be sure to have a discharge of such *Mortgages*, *Judgments*, *Statutes*, and *Recognisances*, which are found upon *Record*, or otherwise discovered, or to inforce the depositing of part of the money in their hands, to free or discharge *Incumbrances*

or

or *Anſwers* upon oath in *Chancery*, to diſcover them: And beſides the uſual *Covenants* of freeing and diſcharging all manner of *Incumbrances* done, or ſuffered by the Seller or Borrower, and if need be, ſome of their Anceſtors, or from whom they claim; and of making better *aſſurance* within ſo many years limited, as the *Purchaſor* or *Lender*, or their *Counſel* learned, ſhall reaſonably adviſe or require, do for the moſt part of them, like ſome grand *Seigniors*, or men of *Empire* in their Wills and Deſires, upon ſuch as are to ſell or borrow to defend themſelves againſt ſome importunate *neceſſities*; and muſt needs therefore *bow* down before them, and yeeld to all that is demanded of them, rather take too much, then too little *Security*, to the great and many times impertinent coſt of the *borrower* or *ſeller*, and that with ſo great *ſeverity*, and never almoſt to be ſatisfied *curioſity*, in the *inforcing*, *obtainning*, *making*, *recording* and *inrolling* of their *aſſurances*, as it is to be wiſhed, that they would but imploy the *tenth part* of that care and deligence, to ſecure and

provide for a Bleſſed Eternity.

And if amidſt all theſe their cares and induſtries, they happen to meet with any former Bargains or other Titles, diſturbing their *Purchaſes* or *Mortgages*, which is very ſeldom.

Or that ſuch as greedily *hunting* after cheap bargains, and to have them to be ſo, can be content to adventure upon crackt or *litigious titles*, or *incumbred eſtates*, or in a wilful haſt, or *giddy confidence*, think their money or fees well ſaved, if they trouble not a *Lawyer* that is able to adviſe or make their conveyance to be ſafe and legal; but will either do it themſelves, or imploy ſome *Scrivener*, *Parſon* of the Pariſh, or yong Clerk to make it, or will not be at the charge of a *Fine*, or to ſtay a day or two longer to get a *Statute* or *Recognizance*, or have it done as it ought to be, do come afterwards to be *deſervedly* troubled with defects or controverſies in their Conveyances or Eſtates, which are for the moſt part cauſed or bred onely by the raſhneſs, ignorance, negligence, or careleſneſs of themſelves, or their *Attorneys* or *Solicitors* (thoſe

(those few *suits* and *troubles* which sometimes accompany such kinde of *Purchasors*, having for the most part, besides the knavery of those who should have been bound faster, no other cause or original, are all of them notwithstanding, not seldom holpen or set right again by those many remedies which the *Courts* of *Law* and *Equity* do afford them against *voluntary* or *dormant Deeds*, or such as are not made upon good consideration, old *sleeping Statutes*, *Judgments* or *Recognisances*, not in a long time called upon or put in Execution.

So as to constrain the people to such a *Registry* of all their Evidences, onely to secure *Purchasers*, who either will or might be sure enough to secure themselves without it, (some defects in Title being not by any *Registring*, possibly to be discovered, if the *Deeds* should be over and over, and every moneth in the year *Registred*) may seem to be as little necessary or pleasing to them, as for every one in a *Town*, *County*, or *Nation*, to be ordered or compelled to take *Phisick* every year, or

keep ſome *coſtly* or *tedious way* of *diet* to prevent *Apoplexies* or *Gangreens*, or ſome ſuch like ſeldom diſeaſes or accidents which may happen to their bodies, becauſe ſome few have died or been much troubled with it, when as *multitudes* of them are in health and do not need it; many fear it not at all, nor are likely to be in any danger of it, ſome ſo poor as they cannot be at the charge, and others not able to undergo the trouble or diſtemper of it.

And more eſpecially needleſs, when every man which doth but know any thing in our Laws, or hath ever bought or ſold Land, or ſought to recover any which hath been aliened from him, or had *Intails* which his careful Anceſtors thought to have been an unalterable proviſion for him and his poſterity, *docqued* and cut off, cannot but confeſs, That our Laws have from time to time been exceeding careful, and made it to be a great part of their *buſineſs*, to ſecure and protect *Purchaſors Bona fide*, who are already as well (if not more) provided for in their Conveyances and Aſſurances, as any *Nation* under Heaven; and as far alſo

as

as the care or wit of man could hitherto conceive it to be necessary by *Feoffments*, with *Livery* and *Seisin*, *Fines* and *Recoveries*, *Leases* and *Releases*, *Demise* and *Redemise*, *Warranties*, *Bars*, and *Non-Claims*, *Prescriptions*, *Estoppels*, *Entries tolled*, *Judgments*, *Statutes* and *Recognisances*, with *Collateral security* to perform *Covenants*, *Discovery* of *Incumbrances* upon *Oath*; the Statute of 27 *H.* 8. for transferring of *Uses* into *Possession*, the *Act* of *Parliament* for *Inrolling* of *Deeds* of *Bargain* and *Sale*, an *Act* to preserve the *Estate* of *Tenants* for *years*, in a *Recovery* suffered by one in *Reversion*; an *Act* of *Parliament* in 2 & 3 *E. 6.* for *saving* and *allowing* of *Leases*, and other kinde of *Estates* not found in any *Inquisition* or *Office* to intitle the *King*; three or four *Statutes* or *Acts* of *Parliament* against *fraudulent assurances*, or such as go about to deceive men of their Debts; and another in 27 *Eliz.* ordaining a forfeiture of a years value of the Land, by such as are parties or privies in the same; the Statute of 23 *Eliz.* for *Inrolling* of *Fines* and *Recoveries*,

veries, to avoid *Errors* in them; three or four *Statutes* or *Acts* of *Parliament* concerning *Bankrupts*.

The Statute against forging of *Deeds*, the Statute of 21 *Jac.* for limitations of *Writs* of *Formedon* unto twenty years after the Title accrued; and another to quiet the Titles of all men against the *King*, certain cases onely excepted, which had been in sixty years quiet possession; another, That the Lands of men, dying in Execution, should be chargeable with their Debts; and another to make it Felony against such as should levy *Fines*, suffer *Recoveries*, or acknowledge *Judgments*, *Statutes*, or *Recognisances* in other mens names, with the *Rule* of expounding *Grants*, strictly against the *Grantors*, *Debts* to be paid before *Legacies*, and *Trusts* void as against *Creditors*, and many other aids and assistances not here enumerated, which the *Laws* have been at all times ready to contribute to such as shall timely and seasonably require or make use of them.

§ 22. But if there could be any necessity, ground,

ground, or colour of reason, to lay so great and needless a charge upon the people in general, in *Registring* their former *Conveyances*, to prevent a seldom or far lesser charge or loss which might but possibly happen to some few; in particular, yet such a *Registring* will certainly, besides many other evils attending it, revive and raise Controversies betwixt adversaries, or such as have been the former owners or inheritors of the *Lands*, make and multiply *Suits*, which were never intended, or incourage others to project or make designs upon men and their Estates; and so breed and multiply *Informers*, as few mens Estates or Titles shall be free from such kinde of *Vermin*, and welwishers to themselves, more then to the Commonwealth: And if no other troubles shall break in that way, lessen or take away the credit of those, who were before reputed to have had a good Title to their Lands and Estates, especially when the late Wars and Plundrings, have lost or taken away a great part, if not all, of mens ancient and later *Deeds* and *Evidences*; and where

some

ſome ſhall appear to be *Regiſtred*, and others found to be wanting.

§ 24. Or if they could be found or produced, will many times be to ſeek for thoſe that did ſeal or execute them, whereby to have them acknowledged and regiſtred.

Or when thoſe that ſhould be vouched to *Warranty*, or ſued in a *Warrantia Charta*, or to perform *Covenants*, ſhall be gone beyond Seas, or dead, or inſolvent, and no witneſſes to be found, that can tell or remember any thing of the contents or verification of them.

The want whereof, may be a way to raiſe again, when courage and neceſſity ſhall meet together, the old way (long ago laid aſleep, and diſuſed by our now more ſafe then formerly, keeping our *Records* and *Evidences*) of gaging *Battel* in a *Writ* of *Right*, and fighting by themſelves or Champions.

To which, and many more troubles and inconveniences which may be hereafter ſadly experimented, there will alſo be too large an Addition.

If

If all *Bonds, Bills, Leases, Releases, Feoffments, Contracts* in writing, and whatsoever writings else which may prove or happen to be *Incumbrances* upon Real and Personal Estates, must also be *Registred.*

CHAP. V.

Of the Registring of all Bonds, Bills, Leases, Releases, Feoffments, Contracts in Writing, and all other Writings executed, which may incumber Real and Personal Estates.

FOr it will as to the *Debts* and *Recognisances*, *Fines*, *Port-Bonds*, *Obligations*, (which have the force of *Statutes Staple*) and *Accompts* due to the *King* or *Supream Magistrate*; which by their many *Priviledges*, *Powers*, and *Severities*, may bring great Incumbrances and Troubles upon such as shall deal with such Debtors or Accomptants, by way of purchase or lending of money: And as to *Wills* aud *Testaments* (which by disposing & charging of Lands, may sometimes *obstruct* or *lessen* the Estates and Assurances of Purchasers) *Decrees* in *Chancery* and the *Exchequer*, Fines and Recoveries, Judgments, Statutes, and Recognisances, raise a new and unnecessary charge upon the people, upon a pretence onely that Incumbrances of Mens Estates and Lands, cannot now be so readily found in

Coke's 3 *Reports*, Sir *Will. Herberts* Case. 7 *Reports*. Sir *Thomas Cecils* Case. And 11 *Reports*. Earl of *Devonshire's* Case.

Twelve or thirteen places in *London*, within half a mile one of another, as they hope they will be by their supposed better *Registring* or *Kalendring* of them in above Fifty several Shire-Towns, some thirty, some one hundred and twenty, and the least twenty miles distant one from another.

For the Debrs and Accompts due to the *Supream Magistrate* and their discharges, are already entred and *inrolled* in the Court of *Exchequer*, attended by the Clerk of the *Pipe*, and his great *Roll*, the Two Remembrancers, the Tally, and Pell, and Auditors Offices, and need not to be twice *Inrolled* and *Registred*. *Wills* and *Testaments* are Registred in Books of Parchment, fairer and better kept then any Records of the *Nation*; and for a small *Fee* or *Recompence*, laid open to the view of such as shall have occasion to seek for any thing in them. *Fines* are exactly and without any difficulty to be found in the *Fine Office*, and *Recoveries* in the Clerk of the *Warrants Office* in the Court of *Common Pleas* the Decrees in *Chancery*, fairly entred by sworn Registers, and their Clerks in Books of

Orders,

Orders, and so *methodically* kept and *Kalendred*, as the search hath nothing at all of hardship in it; and are (if the Clerks of the Six Clerks do but their duty) *inrolled* afterwards in *Parchment*, and carried to the Chappel of the *Rolls*, where they are most orderly kept, and easie to be found; the *Recognisances* acknowledged in that Court, being with as little charge and labor to be found in the *Inrollment Office*; and after they are Inrolled, carried in and laid up amongst the *Publick Records* thereof. The *Recognisances* taken before the Justices of the Peace, are, or ought to be duly certified into the *Quarter Sessions*, and entred with the Clerks of the Peace of the several Counties. *Statutes* (not *Merchant*) are orderly to be found in the *Statute Office*. *Decrees* of the *Exchequer* entred into Books, and kept by particular Clerks in the two *Remembrancers Offices*; and the *Judgments* of that Court are, as the *Judgments* are in the Courts of *Upper Bench* and *Common Pleas* at *Westminster*, duly entred and recorded in their several *Rolls* or *Records* in *Parchment*; and

for ſuch as are in the Courts of *Upper Bench* and *Common Pleas*, entred upon *Poſteas* and after Verdicts, have their particular Clerks of the *Judgments*, to enter and give accompt of them: The *Searches* in all which ſeveral places, making no great charge to the people; ſome whereof are to be had for nothing, others for Four pence; ſome Eight pence, others Twelve pence, and the greateſt not exceeding Sixteen pence; which in a general ſearch, though all thoſe Twelve or Thirteen *London* Offices and places, will not altogether be ſo much as the charge of a Man and Horſe, for one days journey, for a ſingle ſearch to a *Regiſtry*, if not much above twenty miles diſtance.

But if there could be any reaſon to *enter* and *inrol* them over again, and put them into Fifty two ſeveral places and diſtances, ſo far of from one another, or to perſwade or enjoyn people not to look for them, where with moſt eaſe and leſs charge they are to be found.

§ 25. The Clerks or Regiſters of ſuch new erected Offices (if either they or their buſi-

neſs

neſs could be for the good of the *Commonwealth*) will be too much exempted, and at liberty, if they ſhall not according to the *Law* and *Rule* of *Right Reaſon*, hitherto obſerved, be conſtituted and made to be under the *Survey* or *Control*, and *ſworn* as Officers or Clerks of ſome of the Superior Courts; As the Clerks of the *Tower Records*, and *Chappel* of the *Rolls* are of the Maſter of the *Rolls*, the *Cuſtos Brevium* of the *Upper Bench*; of the Judges of that Court, the *Cuſtos Brevium*; and all other Officers of the Court of *Common Pleas* are; of their Judges, the Two *Remembrancers* and Clerks of the *Pipe*, by *Act* of *Parliament*; and the Chamberlain of the *Exchequer*, and the Keeper of *Doomſday* Book; and divers ancient and miſcellaneous Records of great value are of the *Lord Treaſurer*, *Chancelor*, and *Barons* of the *Exchequer*.

For if they ſhall not be incorporate and ſubordinate to ſome one, or every of theſe Superior Courts, as to ſeveral reſpects, whereby with leſs charge to the people, or trouble to thoſe Courts, to collect and make

make up their *Registers* out of the Records, if there could be any need of it; as the Clerk of the *Pipe* and *Exchequer Remembrancers* are order'd by *Act* of *Parliament*, to do one out of anothers *Rolls* or *Office*, the *Decrees* and *Recognisances* in the *Chancery* and *Exchequer*, and the *Judgments* in the Courts of *Upper Bench* and *Common Pleas* at *Westminster*, must by this new and unpractised way of *Registers*, be certified out of those Superior and Grand Courts of the *Nation*, to those who are neither Courts of *Record*, nor intend to be in any *subordination* to them, with a great deal of unnecessary charge and trouble to the people, to procure *Exemplications* under the Seal of the said Courts, or *authentick* and *sworn* Copies of Records of them (the latter whereof being to be delivered by the Plaintiffs, or those that obtained the Judgments, or their *Attorneys*, or any other interessed therein, may produce many inconveniences) and send them to and from all parts of the *Nation*, one as far as from *Kent* to *Westchester*, and another from *Oxford* to *York* or *Lincoln*; and upon three

several

ſeveral Judgments had at *London*, as it many times happens upon one Bond for payment of money, wherein three or four ſeveral men of three ſeveral Additions or Reſidence, do ſtand bound to ſend into *Wales*, *Northumberland*, *Devonſhire*, *Cornwal*, or the like, to have them entred in the proper *Regiſtries*; where alſo Judgments in perſonal and tranſitory Actions againſt men, who have neither Lands or any fixed Reſidence in one County, more then in another, and write themſelves of ſeveral places, will be ſo much the more difficult in the ſearch, and finding them; As Fifty two Shire Towns are moſt commonly farther diſtant from thoſe that muſt go unto them, and at all times not a little remote one from another, and not ſo eaſie or expedite a ſearch, as it would be with the *Regiſters*, or at the *Chappel* of the *Rolls*, in *Chancery* the *Prothonotary* of the Court of *Upper Bench*, the three *Prothonotaries* of the Court of *Common Pleas*, and in the *Pipe* and Two *Remembrancers* Offices in the *Exchequer*, the Office for *Probate of Wills*, the *Fine* Office, and Clerk of the

Warrants

Warrants and the *Statute* Office, who are all of them conſtantly to be found moſt part of the *Vacation*, and all the *Term* times, within leſs then a mile of one another at *London*, without ſending any one on purpoſe thither.

§ 26. Or if the Plaintiffs or the Superior Courts, whoſe *Judgments* and *Decrees* once entred and inrolled, cannot by the *Judges* themſelves be ſtayed or arreſted, without a *Writ of Error* in Courts of *Common Law*, and a *Bill* of *Review* upon a *Decree* in *Chancery*, and are ſworn not to deny any man Common Right, ſhall be ordered to tranſmit or certifie Copies of ſuch *Judgments* or *Decrees*, with an *Injunction*, That they ſhall not be otherwiſe valid, or put in execution, will not onely be unparalelled and unpreſidented, and againſt the Oath of the *Judges*, and Common Right and Juſtice; but render thoſe ancient and ſuperior Courts to be but as half Courts of *Record*, and their Judgments but Interlocutory; or as Offices onely of *Inqueſt* and *Inquiry*, and the *Regiſtries* to be in effect and power, as their Superiors.

Mean

Mean while the people having obtained any *Judgments* or *Decrees* in those Courts, concerning Lands or Personal Estate, shall by this new way of *Registries*, be (if there shall be no provision or exception for such Cases) necessitated and put to another needless charge, and trouble of transmitting Copies of their *Judgments* and *Decrees*, which by a sudden Satisfaction, Composition, or Agreement (which happens so often, as there is not one *Judgment* in every twenty in a year, considered one with another, which stands unsatisfied or unagreed, or remains as an *Incumbrance* for three Terms after) do come to be either useless, or not at all to be put in execution or be disabled by such restraints, to take *Executions* upon such *Judgments*, which are not satisfied, though it be against a flying *Debtor*, or a wasting estate, or to acknowledge satisfaction upon any such *Judgments*, until they shall be transmitted to the *Registries*; where unless all *Releases*, *Satisfactions*, and *Payments*, either in part or in whole upon *Judgments*, shall be also entred. (Which with the other troubles of § 27.

Registring, will be enough to keep all the men and people of the *Nation*, from the danger of falling into the *Lethargy* or *sleeping sickness*) they may receive mens moneys for Searches and Certificates, but never be able to give a certainty or truth of what shall be desired of them.

§ 28. *Bonds*, *Bills*, and other Writings, which are now usually made upon all occasions, and at all convenient times and places, in above Nine thousand Parishes, *Sundays* onely excepted, and many of them in half or a quarter of an hours space, with great dispatch and ease to the people; cannot, if they must be *Registred*, be made now, or done as formerly, without both the parties travelling together to the *Registry*, or meeting at 1. or more Shiretowns in fifty & two, to acknowledge and enter them, which may be Forty, Thirty, Twenty, or Ten miles off from the place where the Contracts were made; and will so trouble every mans ordinary, and formerly easie enough, affairs and business in that kinde, as to make them to be no less then extraordinary *Incumbrances*, and too much *discover* every mans Estate,

Eſtate; and double every mans miſery and wants, in taking away his credit, which might by degrees be a means to help him out of it.

Unlock and throw open every mans *Cloſet* or place wherein he keeps his *Writings* and *Evidences*, and expoſe them for the *Regiſters Fees*, to the view of every one that ſhall have a deſire to ſee and take Copies of them; which the *Chancery* and other *Courts* would not ſuffer to be done, or ſo much as to be ſeen or read by their adverſaries, unleſs at *hearings* or *tryals*; nor their *Counſel*, *Attorneys*, or *Solicitors*, to be examined as witneſſes againſt them, or to diſcover what they had ſeen, or underſtood by their *Writings* or *Evidences*. § 29.

Mens wives may by this means be as privy as themſelves, to their Eſtate and Evidences, which *wiſe* and *good men* many times finde fitting to conceal from them; to the end, that they may not laviſh, and be the more irregular in their deſires and expences. § 30.

And their children more prodigal and § 31.

wasteful, and less careful to please their Parents, or to be *governed* by them in their Marriages, when they shall know what is before-hand setled upon them.

§ 32. Those that have good Estates, will be rendred so, more then needs, to be visible; as the *Taxers* or *Assessment-men* shall be sure to over-rate them; for although there be found such *Deeds*, or *Conveyances*, or *Bonds*, or *Bills* made unto them, which may seem as a good Estate or *Income* they cannot, or at least will not be at leasure to computate their charges, and out-goings, or be able to judge how much they are *trusted* or *seised* to other mens uses, or how much of those Lands are afterwards sold, or how much they stand indebted to others.

§ 33. Many thousand *Tradesmen* and *Merchants* in the Land, who live upon credit, diligence and industry, and have of their own scarce a tenth part of what they trade for, or is in their Shops or Warehouses, will be so laid open to the view and jealousie of their Friends and Creditors, or such as they trade with, as they will every one

one be ſo afraid of the poor *Debtors*, and one of anothers being not paid firſt, or that they may come to be looſers, as they will ſtrive who ſhall get himſelf firſt paid; and ſo altogether diſtruſting and vying who ſhall be the firſt, ruſh in at once upon them, and be ſure to deſtroy and tear them all in peices.

No man when he ſees a ſmall or no Eſtate in a yong hopeful *Tradeſman*, will lend him any thing to ſet up withal: And all thoſe advantages which men may have by their towardlineſs, and honeſt, and hopeful endeavors will by this Inquiſition be taken away and made to be of little advantage. § 34.

Many of the *Nobility*, *Gentry*, *Merchants*, *Tradeſmen*, *Mechanicks*, *Yeomen*, *Farmers*, *Husbandmen*, and even day *Laborers*, being two parts in three of the *Houſe-keepers* or *Maſters* of Families in all the Nation, who by the late Wars and Miſeries of the times, and decay of Trade and Merchandiſe, are come either a great deal indebted, or ſo far behinde hand, as more then one half of them may be rationally enough believed to be § 35.

be, if their Creditors did but know the weakneſs of their Eſtates, not far from the priſon door, or having their Lands extended; and all of them, if a Statute of *Bankrupt* could be ſued out againſt them, irrecoverably thrown into ruine, will by this means be very much prejudiced in their Eſtates and ſubſiſtance.

§ 36. *Yonger Brothers* and *Soldiers*, and all ſuch as have no Lands, or certain viſible Eſtate, and are a conſiderable part of the Nation, will never be able to advance themſelves in Marriage, or borrow money to buy Land, or trade withal.

§ 37. Such a *Regiſtry* will make a man that is but a little going behinde hand, to be reckoned as quite undone for that, if his Payments and Diſcharges of his *Mortgages* and *Bonds*, and every half year or ſix moneths payment of Intereſt, be not alſo *Regiſtred*, or a *ſearch* made through all the Fifty two Counties and *Regiſtries*, what he hath paid or diſcharged, or purchaſed, or had *Regiſtred* in his name in others places, or which he hath in *Charter*, *Parties*, or *beyond Seas*, or in *Factories*, *Retorns*, or *Conſignments*, clearly

ly liquidated or made to be certain and apparent, and will require a great deal of time and money to travel, or ſend from place to place ſo far diſtant to inquire of, which *envy* and *ill-will*, or the ſaving of charges, will hardly or doe very ſeldom permit, he ſhall be given over as a dead man, or a perſon infected with the Plague, or ſome contagious diſeaſe which no man will come at.

And if the party thus wronged or abandoned, ſhall go to right or clear himſelf by *proofs* or *Certificate*, it will not onely make it to be an unuſual and ſtrange kinde of Proces or Inquiry, but to be very chargeable, whileſt by the failing of his credit, and falling on of his Creditors, he ſhall be ſure to be undone, before he can tell how to right or clear himſelf from that imputation. § 38.

It will too much advantage and encourage Forreign *Kingdoms*, *States*, and *Commonwealths*, that are at preſent, or ſhall be hereafter in hoſtility with us, to make or continue Wars, when they ſhall from year to year be able to finde the *poverty* and § 39.

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consumption of the Nation ; and will by such an inspection into our *Books* and *Registers*, instruct Forreign *Merchants* or *Bankers*, how to raise their moneys exchange or commodities, by working as they do too much already upon our *Merchants*, wants and necessities, who will not be able to send or carry ready money, if they could be allowed to do it.

§ 40. *Bills* of *Exchange* which have their ground and foundation altogether upon the credit of him that gives it, and are as well at home, as in the parts beyond the Seas, a cause of *traffick* and *commerce*, and the swift and sure conveyers of money; and if it could be brought to a true *examen* and accompt, would appear to be so much carried and communicated to several hands and uses, meerly upon *Exchange* and *Credit*, as amounts to half the money and personal riches of the Nation, will not in such a growth and fertility of *distrust* and *jealousies*, as will by this means be in all men and parts of the *Commonwealth*, when it shall be known what money *Merchants* do ow, or take up at Interest, to Trade withal;

be

be now made use of as formerly without a search, through all the Fifty two *Registers*, for fear least the *Bills* should not be answered: And where *Merchants* and *Men of Credit* are, if they accept a *Bill* most careful to perform it, and not onely they that send, but those that do accept it, look upon a protest of not payment, as some mortal sickness happening to their *Trade*, *Credits*, or *Estates*, will by reason of this *Engine* of *jealousies* or *distrust*, neither know how to accept or give any *Bill* of *Exchange*

Will be very grateful to the *Theeves* and *Highway-men* of the *Nation*, who have long taken this way of sending *Bills* of *Exchange*, to be a grievance and hinderance to their imployment; when men being so generally affrighted by these new kinde of *Registries*, shall rather adventure to keep and carry their money themselves, give them an opportunity of becoming, as they think the better keepers of it, and save them the hazard and charges of corresponding with *Ostlers*, *Chamberlains*, and *Tapsters* in the *Inns*, ot to employ *Setters* § 41.

 when

when by ſearch in the *Regiſtries*, they may know what money is ſtirring, and how to way-lay the payment or Carriers thereof.

§ 42. The *Aſſurance Office*, whereby ſo many do daily ſecure their Fears, Eſtates, and Adventures at Sea, now more uſed and requiſite then formerly, will be ſo much diſtruſted; as thoſe that were wont to be afraid of *ſtorms* and *caſualties* at *Sea*, will be now not a little afraid of the *Inſurers*, and whileſt they ſhall ſtand conſulting betwixt *Scilla* and *Charibdis*, ſpend ſo much time in it, as the news of their undoing may come unto them before they can finde the way to reſolve how to prevent it.

§ 43. Diſgrace and diſparage the City of *London*, the *Mother* and *Nurſery* of all our Trade and Commerce, at home and abroad, ſhut up the *Old Exchange*, take away or deſtroy all our Traffick, by Land or Sea, and the Shipping and *Navigation* thereof, and like a general *Beggery* caſt over all the *Nation*, make every man afraid to truſt or deal one with another.

Or

Or if to amend the matter, all *Bonds* and *Bills*, ſhall by their *Regiſtring* have the force and power of *Judgments*, *Statutes*, or *Recogniſances* beſtowed upon them.

Such a rigid and binding *ſecurity* which all men have hitherto looked upon as grand *Incumbrances* to their *Eſtates*, and did therefore in all their *Contracts* and *Bargains*, avoid as much as they could; and which, the people did ſo little deſire to preſs one upon another, as though ever ſince the Reign of King *Edward* the Firſt (which is now almoſt Four hundred years ago) it was in their power to require it, there is not above one *Statute* or *Recogniſance*, or *Judgment*, entred into or given as *ſecurity*, in or for every thouſand *Bonds* or *Bills* which are made, and taken every year in the *Nation*; and if they ſhall now, whether they will or no, have all their *Bonds* and *Bills* made to be ſo *fierce* and *biting*, will upon ſatisfaction and payment be inforced to a great deal of charge and trouble in the diſcharging or vacating of them; and in ſtead of taking of *Incumbrances*, § 44.

prove to be the greatest and most general in the Nation.

§ 45. And not well agree with the *Laws* of *God*; and of this, and many other Nations to binde or *captivate* the Contracts of the people, which (*Sundays* onely excepted) are daily and hourly made to so much trouble, charges, discredit, and severity, before they can be ratified, when as a more easie and gentle way of *Securities* and contracting one with another have hitherto, and for many hundred years together dispatched them,

§ 40. Will cause those that with care and discretion enough, may have an occasion for themselves or their friends, to stand bound in twenty several *Bonds* for payment of money, or performance of *Covenants*, or the like, to be so much discredited or distrusted by two or three *Bonds*, which shall be found to be entred upon *Record*, as every man doubting the *Priority* of the former *Bonds* (if they shall be of the force of a *Statute* or *Judgment*) will be afraid to meddle with them, or take them for *Security*,

Make

Make every man to be little better then a *prisoner* in execution, and to renounce the benefit of the *Law*, which was his birth-right, before he can borrow a little money to satisfie his necessity or occasions, or to trade withal; and like *Esau* sell his birth-right for a mess of *Potage* to pacifie his hunger; and every *Bond* and *Bill* to be as a continual and standing *Commission* of *Bankrupt* to hover over him, and tear and pull him in peices; and every borrowing of money, to be as a *rack* or *torture* of his credit, and a thraldom of his Estate. §47.

Strengthen the hands of the *Usurer* and *Oppressor*, bruise the broken *Reed*, *Stretch out the paws of the Bear*, *and sharpen the talons of the Vulture*; leave the poor and honest to the *cruel mercy* of the wicked, to be gnawn and devoured like *Sheep*, and teach the *Usurers* (a great part of whose trade and cunning, it is already like the *Kite* to catch the *Chicken*) to finde out the necessities of the people, and prey upon them; and if they give not what *brocage* they please, to lend them money or to forbear or continue it at Interest upon the §48.

same

ſame ſecurity (which Ten thouſand Bonds and Bills in this Nation, by payment of the Intereſt, and many times without, have been for two, three, four, or ſeven years together, without any ſuite or trouble begun, or made upon it) inforce them to all manner of *extortions* and hard *conditions*; which if they will not call a mercy or thank them for it, and fairly and quietly lie down, and have as many Feathers as they pleaſe plucked of them, and live in as much fear of them, as the *Partridges* do of the *Hawks*, and by ſo much the more for that the Uſuring Hawks can when they pleaſe (which the other cannot) know where to finde out their prey, utterly and at once deſtroy them by ſeiſing upon their Goods and Lands, and carrying them to priſon.

§ 49. Which will be contrary to thoſe moſt righteous and unerring *Laws* of *God*, and the minde and pity of the *God* of *Juſtice* and *Mercy*; who in his own bleſſed *Laws*, ſaith, *Ye ſhall not afflict any widow or fatherleſs child. If thou afflict them in any wiſe, and they cry at all unto me, I will ſurely hear*

Exod. 22. v. 22,23,24.

their

their cry, and my wrath shall wax hot; and I will kill you with the Sword, and your wives shall be widows, and your children fatherless.

If thou at all take thy neighbors rayment to pledge, thou shalt deliver it him by that the Sun goeth down: For that is his covering onely, it is his rayment for his skin; wherein he shall sleep. And it shall come to pass, when he cryeth unto me, that I will hear. Exod. 22. v. 25, 26, 27.

Thou shalt not take the upper or the nether Milstone to pledge. When thou doest lend thy brother any thing, thou shalt not go into his house to fetch his pledge. Deut. 24. v. 6, 10. Which gives no way or allowance to the tearing of their credit in pieces, nor agrees with what our *Saviour Christ*, and his blessed *Apostles* taught us, *To do as we would be done unto. And blessed are the merciful.* Matth. 5. v. 7, 9. *But if ye bite and devour one another, take heed that ye be not consumed one of another.* Gal. 5. v. 13, 14, 15.

Executions cannot be made thereupon, without Certificate of the Bonds or Bills *Registred* into the *Chancery*, as is provided by the Statute of *Acton Burnel*, 11 *E.* 1. §50.

And

And if they be certified, will make another charge, and may and ought to be pleaded to; as in the case of *Statutes Merchant*, or other *Statutes* allowed of, and provided by the *Statute* of 23 *Hen.* 8. *cap* 6.

§ 51. Whereby the Plaintiffs shall throw down and worry the Defendants, and the Defendants make a shift to get up again, and beat and take away their weapons from them by giving Bail, to make proof of their *complaints* and *suggestions* suing an *Audita Quærelas* out of the *Chancery*, which like a Bill in *Equity*, having a long course of *suggestions* and *witnesses* to attend it, will loose more time, and make more charges upon such an after *game* and *scuffle*, then would have been expended in the ordinary way of proceeding or getting in money due upon a Bond or Bill, not having the force of *Statutes*.

For *Statutes Merchant* are to have a *Capias* and a *Non est Inventus* returned, before there can be an extent or seisure of his *Lands* or *Goods*; and upon a Statute in the nature of a *Statute Staple*, the *Plaintiff* or

or *Cognisee* is first to have a Certificate from the Clerk of the *Statute Office*, to the Clerk of the *Crown* or *Commonwealth* in *Chancery*, who upon payment of an half penny in the pound, for the sum expressed in the Statute, to the use of the *Supream Magistrate*, makes out the extent, upon which the Sheriff by *Act* of *Parliament* takes for his Fee twelve pence *per* pound for the first hundred, and six pence *per* pound for the other hundred, besides other charges: Which Writ of Extent being returned, and filed in the *Petibag*, is the Warrant for a *Liberate* directed to the Sheriff, to give possession of the Land extended, which is but many times the beginning of a greater charge, in bringing *Audita Quærela's* or *Bills* in *Chancery*,

When as it is in every year to be proved and acknowledged for a truth, That of Eight hundred Actions or Writs issuing forth of the Court of *Common Pleas* or *Upper Bench* in a year, in some one particular County for *Debt*, upon *Bonds* or *Bills* or in some other Personal Actions, there are no *Warrants* taken out to Arrest § 52.

above Six hundred of them, in regard of the Defendants speedy Agreement; and of those Six hundred, not above Three hundred are Arrested, or come to enter their appearance; and of those not above a half come to plead or make any defence, and not the one half of them do afterwards come to tryal at the Assises; and not a fifth part of those do come to move in Arrest of *Judgment*, or sue out *Writs* of *Error*, or put in Bills in *Chancery*: And those that do not proceed so far as to Arrest, do not put the Plaintiff or Defendant to so much as Ten shillings a peice charges; the second sort including the former charges not Twenty shillings a piece, if the Defendant be not a desperate fighter, and hard to be taken; and the third sort, if there be no special or long Pleadings, not above Thirty shillings in all; and the fourth sort, or such as come to tryal, not above four or five pounds, with all the charges reckoned together, besides that of *Witnesses* or extraordinary *Counsel*, so little is the expence of time and money, in the present way or course of suing upon Bonds and Bills, and

other

other Personal Actions. And so much is like to be the delay, and charges, and vexation of that which some would so willingly have to succeed it.

But if the trouble and charge of *Certificates* into the *Chancery*, and suing out of *Audita Quærela's*, and such a generation of *Suits* as are like to happen by such a severe kinde of *Securities*, shall be endeavored to be prevented by making every *Registry* to be a Court of *Record*, and to have something to hear and determine, as well as to *Write* and *Register*. §. 53.

CHAP. VI.

Of new Courts *or* Judicatories *to be erected in every County, to hear and determine Causes.*

THere will be then Fifty two Judicatories or Inferior Courts more then are already erected, one of which to be added to every County in *England* and *Wales*, will come before they will be *welcome* or *wanted*; for every Shire in *England* hath already the Summer and Winter Assises, Quarter Sessions four times in every year, County Courts every moneth, Sheriffs Turns, Courts Leet and Baron, and weekly or three weeks Courts in its City or Towns Corporate, amounting in every County to no less then Two hundred, one with another; which being in the wisdom of former ages,

and ſome hundreds of years paſt, and every years experience ſince, found to be in their due limits and bounds, very neceſſary and uſeful, do make as many Law-days and meetings for the people, as they have need of.

§. 54. To help which new *Courts* or *Judicatories* to work or buſineſs, if Bonds and Bills which they would have the Regiſtring of, or any other of the Cauſes or Matters, which are and have hitherto been from time to time, diſpatched by the Courts at *Weſtminſter* (when they had before the Wars and Troubles of theſe later times, almoſt half as much, or as many again as they have now) with good content and conveniency to the people; and to all who have had occaſion to ſeek for, or attend their Juſtice (if thoſe that are ignorant or peeviſhly ſelf-conceited or diſcontented, becauſe their deſires or unjuſt expectations have been fruſtrated in ſome Actions or Suits, which they proſecuted or defended,) would but let *Reaſon* or *Truth* be judge of their Miſtaken-apprehenſions, and not lay their own or other mens errors or failings upon the

Courts

Courts or *Judges*, shall be transferred and carried into these *County Judicatories*, from the more knowing and *Superior Courts* and *Judges* at *Westminster*; who besides their well-known learning, and justice in all *Causes*, which are brought before them, may for an *evidence* or *testimony* of the peoples approbation of them, call to witness the many *causes*, which for many ages together, and in every year are, and have been removed from the *Inferior Courts* to the *Superior*, for want of Justice; and the many *Juries* and *Tryals* at their *Bars*, which by consent, both of Plaintiffs and Defendants, are yearly and termly brought from the Counties, as well near as remote, to be heard by the more *learned* sort of *Judges* and *Courts*,

And put unto the Judgment, and determination of the less, or very little, or not at all able or knowing; will stop up the *ways of the places of the paths*, where *Wisdom* and *Justice* made their constant habitation; deprive and take away (if they shall not be impowred to try by *Juries*) from every man, so much of his

§ 55.

Prov. 5. 1, & 2.

his part and interest in *Magna Charta*, as the want of his tryal by his *Peers*, or a *Jury* will come to, put the *spear* of the mighty into the hands of those that are not able to weild or manage it, inforce the people to inquire of the *blind* and *deaf*, the way to make an end of their *controversies* by carrying their *causes* to such as are not able to judge or determine them, which may after the expence of much money, time, and labor, yield them as good a *Crop* or *Harvest*, as *Ulysses* had when he counterfeited himself to be mad by Ploughing the Sand or Shore with his strange kinde of *Cattle*, and sowing of *Salt* instead of *Corn*.

§ 56. Or if the *Sheriffs Turns* and *County Courts*, shall be put into the power and care of those *Judicatures*, That ancient and necessary *Officer* of *Justice*, and the *execution* of the *Law*, will be made either to be as nothing, or but the one half of what it was formerly, and ought to be; and the whole frame of that ancient and useful *Jurisdiction* put into disorder, or dissolved; or if the *Hundred Courts*, *Leet* and *Baron*, will take away the *inheritance*, *right*, and

property

property of the *Lords* of *Manors*, and the necessary *relations* and *dependences*, which are and ought to be betwixt them and their Tenants, contrary to *Magna Charta*, and the whole tenor of our *Laws* and *Liberties*.

Or if these new *Judicatories* shall as the *Systeme-makers* had for the setting up of others, not long ago contrived, be made up of several parts or pieces, and torn or taken out of that goodly *order* and *frame* of our *Laws* and *Body Politick*; or as the *Romans* did in their original contempt, and poverty, in the getting the *Sabine* and *Neighbor Virgins* to be their *Wives*, sally out upon other *Jurisdictions*, and *Ravish* and take to themselves what they can get, and no way belongs to them, will by all, or any of those ways, not onely vex and turmoil all sorts of people; and bereave them as the Members of the Body Politick of the daily care, influence, and communication of *Justice* which they used, and ought to receive from the *head* and *supream Authority* in a place so near unto it; and those that sit at the *Helm* of *Government* of that *term-*

ly

ly intelligence which they ſhould have, and cannot well be without at *London* and *Weſtminſter*, concerning the due Adminiſtration and Diſtribution of *Juſtice*; beſides an half yearly inſpection into the due execution of *Juſtice* in the ſeveral Counties of the Nation, and the peoples content and ſatisfaction in it, by the Aſſiſes wherein the *Judges* of the Superior Courts, like ſo many *Stars* and *Planets* in our *Firmament*, do keep their circuits and courſes, but give them *ſtones* inſtead of *bread*, and *grievances* inſtead of *remedies*;

§ 57. Eſpecially if they ſhall be guided and managed by *ignorant*, though *honeſt well-meaning men* or by *tradeſmen* (whom the *Athenians* and *Romans*, thoſe wiſe and great Commonwealths-men of the World, did never think fit to imploy in the Adminiſtration of *Juſtice*) or ſome ſmall practiſed or unmoleſted Doctors of Phyſick, or men of a contrary Profeſſion, to that which ſhould be the rule of their Judgment, *Town Clerks*, or ſuch who think they can underſtand better then write or read, *Committee* or *Lawyers Clerks*, or ſuch as ſhall

Sigonius de Antiquo jure Civium Rom. Lib. 2. cap. 7. & 18. Et Lib. 1. de Repub. Atheniens. Lib. 1. cap. 7.

shall be but *Balbutientes*, or *Novices* in the *Laws*, or very little or not at all furnished with the knowledge, experience, or practise thereof, or be assisted by *Sidesmen* of their own capacities, or such as being *phantastick* or *self-conceited*, shall think they speak *Law* or *Reason*, or do *Justice*; when none but such as speed well by their doing the contrary, can be of that opinion, and would perhaps do right, if they could understand the way unto it, which to such men will not be very easie, whilest (like those ignorant Judges, which *Plato* long ago complained of) they sit as men astonished in the hearing of any difficult matter, and are to be taught by others; and for want of knowledge in themselves, or how to distinguish betwixt right and wrong, do not know how to judge of that which is said or pleaded before them; but whilest every one of them must have his own discourse, and speak his sense as they call it; will be sure, too often, to leave the *Point*, and *Reason*, and *Truth* of the *Case*, like some house or place infected with the *Plague*, and a *Cross* and *Lord have mercy*

Plato, lib. 2. de Legibus.

 upon

upon us put upon it; and rail against the *Law*, because it puzzleth them; and the *Lawyers for troubling them* (as one of a Country *Committee* not long ago said) *with their many Reasons*. And misuse their *power*, and make it *Arbitrary* in not doing what they might or should do, doing many things they should not do, and doing every thing they would do in making their *Orders* as their *Vulgar Reason*, or the *Byas* of *partiality* or *ignorance* shall carry them; or if one or more should happen to be *Lawyers*, and the major part none, their knowledge can go no further then their *Votes*, or what they shall be able to perswade their misunderstanding, or not at all understanding Companions unto. Mean while the people (who are sure to suffer by it) are after a great expence of Money, and abundance of *Delays*, *Attendance*, and *Trouble*, which are usually to be found in such Courts of later *Edition*, sent home with the sad *stories* of their grievances and complaints, ready to make *Affidavit*, That *Ignorance* in the Administration of *Justice*, is an Accumulation of Evils; the

fruitful

fruitful parent of many grievances, and a *mighty* oppressor.

Which will not be all the evils and mischiefs neither, which are like to come along with it; For this their design of cutting, as it were, the *Moon* into *Stars*, and erecting these *Registries*, and little *Tribunals*, will by degrees remove into them, the business and being of the City of *London*, and Courts at *Westminster*; which hath hitherto, by the Justice and Trade of the *Nation*, residing in it, and a concourse of all *people* and *Nations*, been made to be in that flourishing condition, which it was in at the beginning of the late Wars, in a more near and especial manner, then to the more remote parts of the *Nation*, communicated her riches and increase, to above twelve neighboring and adjacent Counties, who by the raising of their Land and Commodities, and a daily and nightly vent in sending of it thither, have double or treble improved their Lands in their yearly Rents, and values; and will not onely bring a great loss, destruction and ruine to the City and Suburbs, consisting of above §58.

Three and forty thousand Houses, above half whereof, with the several Families and Inmates, which are in the Suburbs, being almost two parts in three of the number, do depend onely or very much, upon the *termly* meetings at the Courts of *Justice*, but impoverish and make a general disturbance in all the parts and Counties of the *Nation*, as well near unto it, as remote.

§ 59. Which are so *incorporate* and concerned in it, as they that know how the Trade and Money of *London* is diffused, and communicated to, and over every part of this *Nation*; and that there is not a City or Shire-town, except *Bristol* and *Hull*, but hath most of their Wares and Commodities from thence, and most of that upon day or trust; and that there is not a *Mercer* or *Shopkeeper*, or *Innkeeper*, in all other Cities and Borroughs, and little Villages, but are furnished with their Wines and Commodities, and are as *tributary* unto them, and depend upon their welfare, cannot deny, but if *London* sink, they are not like to swim; or, if *London* perish, they are not like

like to be without the taste or sense of some of their miseries.

For no man can rationally imagine or believe, that after such a ruine or distruction of this great *Emporium*, and onely *Town* of Trade, of the Three Nations of *England*, *Scotland*, and *Ireland*; and the taking away or lessening the Courts of *Justice* at *Westminster*, the Commerce or Trade of the Nation, can live or subsist in the *Cantons*, or little pieces of Trade or Judicatories which shall be erected out of it, or that it can produce any better effect, then the laying waste of the glory of the *Nation*, and the leading into *Captivity* the *Laws* and *Liberties* of the *People*, or that half of the Fifty two Shire-towns, or any of them, can be so conveniently scituated as to have business and trade enough, to draw all the people and commodities from all parts of the *Nation* to them; or that *Lincolnshire* Fens, or *Buckingham*, or *Northamptonshire* Pastures, or *Essex* and *Suffolk*, *Hertfordshire*, *Kent* and *Surrey*, should or can finde in any of their adjacent Shire-towns or *Registries*, the hundred part of the vent which §60.

which they now have for *Cattle*, *Sheep*, *Wool*, *Hides*, *Corn*, *Malt*, *Butter* and *Cheese*, and all kinde of Commodities; or that it will be any more then to kill and destroy the Heart, the principal part and seat of life; and to hope notwithstanding, that the Liver, Veins, and Arteries, and all that conveyed Blood, Spirits, and nutriment to it, and received life in exchange from it, or the Feet and Hands, Stomach and Belly, that used to supply and be subservient to it, or the Head and Eyes that used to govern or guide the Body which belonged to it, can be in any good condition, and enjoy a health or welbeing, when that so eminent, so vital, and principal a part of the Body shall be cast into a *Consumption*, languish, or be extinguished.

§ 61. And yet when all is done, and the sad *effects* and *consequences* of it suffered, the design or pretence of these *Registries* of securing all *Purchasers* of *Lands*, and *Lenders* of *Money*, or to make Mens Estates to be so visible and transparent, as no man in selling or borrowing, shall be able to cozen or deceive, or not satisfie one another;

other; will be no otherwise possible, then to *break* in pieces, and disturb a whole *Nation*, and put them to a great and unnecessary expence, to do that over again which is already done, and better then they can do it, and leave them open, notwithstanding to as many hazards and contingencies as they were before.

CHAP. VII.

That it is impossible to provide against all which may happen to be Incumbrances.

FOr Confiscations and Forfeitures of Lands; for *Treason*, *Murders*, *Felonies*, and *Premunires*, may be grand Incumbrances to Purchasors, or the Creditors of those that commit them. Misdemeanors, Fines, Forfeitures of Offices or Places; Mortgages, Statutes, Recognisances, Bonds and Penal Bills; breach of Penal Laws, Covenants, Trusts and Conditions, which arising out of the Wills or Pravity of Men, or the necessities or carelesness of themselves, or oppression of others; from *Causes* either in themselves or others, or from *Actions* past or to come, may be a loss or lessening of mens debts, or great obstructions in the recovery of them, Dowers, Intails, powers of *Revocation* (not to mention or insist upon the various or manifold Incum-

brances

brances which may arise or come by Copihold Estates, which being not chargeable with Debts or Extents, are in themselves Incumbrances, and were not long ago little less then a sixt or seventh part of the Lands of *England*, with their Admissions, Surrenders, in or out of Court, absolute or conditional, and their many several sorts of Forfeitures) Lands of *Gavelkind* or *Burgage Tenure*, *Joyntures*, made after marriage and refused, Elopements, and unlawful Marriages, Tenancy by Curtesie, and trusts with other Mens Money and Estates, Moneys insured by Policy of Exchange, Bills of Exchange accepted; Errors in Matter of Substance, in some of the Creditors Judgments, which may be a cause of Reversing them, Disherison of Sons and Heirs Apparent, concealed Illegitimacies, Intrusions, and wrongful Entries, Actions of Battery and Scandal, and all manner of Actions or Suits in *Law* or *Equity*, which may lessen or prejudice any Mans Estate; Assumpsits, Promises and Ingagements by word of mouth (which may make as many Obligations, Troubles, and Ties

upon

upon Mens Eſtates, as Bonds or Bills can do, or did before ſuch kinde of Writings or Inſtruments were invented, Imbargoes, high flying, gaming or gading Wives, which the *Roman Cenſors* would have reckoned amongſt *Incumbrances*; prodigal Children, loſſes by Fire, Sea or Land, Wars, Factors, or bad Servants, Suretiſhip, or too much truſting, death of thoſe for whoſe lives they held Land or Eſtates, or had any dependancy upon, ſickneſs, decay of trade, deceits or wrongs done by others, vain and unneceſſary expences; many of our Actions paſt or to come, *in facto* or *fieri*, *eſſe* or *poſſe*. And all manner of caſualties, accidents or contingencies, which are not viſible before-hand, or appearing, or poſſibly to be found in any *Regiſtry*, may prove to be no ſmall *Incumbrances* to *Money Lenders* upon *Bonds*, or *Bills*, *Judgments*, *Statutes*, or *Recogniſances*, eſpecially if the *Debtors* have no Eſtates in Lands, or ſhall be liable to *Statutes* of *Bankrupt*; which all the *Lillies*, or thoſe which pretend to be in Commons, or greateſt familiarity with the

Stars, or the greatest wits or endeavors of men; can neither perceive before they happen, or tell any one how to escape, but must be constrained to reckon it amongst the number of the *Grand Impossibles* to be done by the sons of men, and confess it to be a work onely fit for *Omniscience* and *Prescience*, of which there will be a *Non Datur* to these new kinde of *Registers*, as well as other men.

And would in the attempt of it, busie and employ all the Clerks and Writers of the *Nation* (though to no other purpose) then to make the people travel up and down, vex themselves with fears and jealousies, and spend more then Twenty times as much again, as they do now in their Writings, Assurances, or Contracts; whereas all the charge of the *Inrollment Office* in *Chancery*, wherein three parts in four of the Inrolled *Deeds* of the *Nation* are inrolled, did never as yet cost or put them to the charge of above One thousand pound *per annum*.

The *Accompt* and *Ballance* of which vast *Registry*, and the calculation of the Riches, Poverty,

Poverty, or Estates of Men, Lands bought or sold, transferred or settled to Uses; and passed after or involved in two or three other Mens Estates. And what is become of the Money, with the Payments, Satisfactions, Profits, Incomes, Losses, Rises or Falls in expences in House-keeping, Apparel, or Recreations, Releases, Acquittances, and Discharges of Lands, Statutes, Judgments, Recognisances, Bonds, or Bills, Promises, Covenants or Contracts, with those many numberless Intricacies and Impossibilities which will attend such a work; will not onely confound the *Auditor*, or a whole *Colledge* of *Astrologers*, if they should undertake it, but give them or any who shall come to be satisfied or secured by them to understand, that it will be as vain in the product or expectation of it, as the design of *Uttamacomock* the *Virginian*, proved to be; who being taken at home for a grand piece of Policy, was sent hither in King *James* his time, and directed by *Powhatan* his King or Emperor, to take the number of the people of *England*, and learn their Estate and Condition; did when he came to *Plimouth*, Cap. *Smith's* History of *Virginia*, 223.

ſtand at his Lodging door, and upon a long ſtick cut a notch for every one that came or paſſed by: But at laſt, finding his notches like to wear out his ſtick, and not being able to know or diſtinguiſh thoſe that paſſed by, or returned; or for which, he had made notches before, had the wit to give over and conclude the people to be very numerous, and the work impoſſible.

CHAP. VIII.

That (if it could be poſſible) the people will not willingly be at the trouble or charges in all their Contracts, to ſearch in ſo many County Regiſtries to diſcover Incumbrances.

§. 62. OR if this *Impoſſible* could (as it never will) be made *Poſſible*, and that all or any part of what is deſigned could be feaſible, and that there could be at every Shire-Town ſuch a rare *Glaſs* or *Perſpective*, at the peoples charge, as they pretend to make for them; the moſt part of the people will, when all is done, be like to do but as they do already, which is not in one of every 500 Bargains, or lending of Money, or Contracts which they make (unleſs where they have to do with ſome very much incumbred, and indebted perſons and Eſtates) to buſie themſelves or their *purſes* in ſearching for *Judgments*, *Statutes*, or *Recogniſances*,

or

or Scriveners Books, or what Fines are leavied, or deeds inrolled, though the searches be not either very troublesome or costly, but rather tarry at home, and believe one another, satisfie themselves by private informations and inquiries, and take, as they have all this while done covenants or collateral securities, to be freed from incumbrances, or upon any probability of distrust cause them to be discovered upon oath, or be as unwilling to be at the labour and charge to prevent such seldom happening frauds or the wrongs which they may receive by them, as they are in multitudes of deceits, cozenings and cheatings which every week or oftener are put upon most or many buyers at markets, and in the trading and commerce of most men one with another, though the Laws have provided several sorts of remedies and reliefs, and the Court Leets and Sheriffs Torns, twice a year holden to enquire amongst other things, of those or the like frauds and some of the Buyers as well as the Sellers, the *cozened* and the *cozening*, those

that commit the frauds and deceipts, and those that suffered by them are not seldom sworn and impannelled in Juries to present them, and every one, or too many as it is to be feared, do buy by false weights and measures which the Office of the *Clerk* of the Markets, and the care which should attend it, and the punishments of Pillory, and other severities, ordered by our Laws against the offenders, have not been able to restrain, and yet by course or custom do too contendedly endure it, or not put themselves to the trouble of complaining of it.

which until a glass, or *Christal*, or *window* can be contrived in every mans heart (and head) to be looked into to discern their hearts and purposes (and their intentions made unalterable) as *Thales* one of the seven wise men of *Greece*, being appointed by *Apollo* with some other wise men and Philosophers to reform the world in that Learned and pleasant *Mythologie* of *Traiano Boccalini* had proposed to be made; will render this design of preventing all or many frauds, and freeing all mens estates

and

and assurances from incumbrances, to as little purpose as the great care which was taken by *Edward* the third and his Parliament in *Anno* 27 of his Raign, to have *Correctors* in every City and Town of the *Staple to make and record Bargains between Buyers and Sellers*, now and long since (if ever put in execution) utterly disused, and believed to be more troublesome then necessary, or or as Mr *Henry Robinson*'s kinde Office of *Addresses*, or helps to borrow or lend moneys, buy or sell, or rent Land or Houses, help Men or Maids to services, or any that want Solicitors for their Suites at Law *cum multis aliis &c.* which being erected at his own charges some years ago, the people who thought they could better do their business themselves (though he was content to take for his Fees, but what they themselves should think reasonable) so little relished, as he and some others who have since driven on that design of Publick *Advice and Assistance*, have to their costs and charges found it to be onely an essay of their own invention,

which hath neither answered their charges or expectation.

Nor will this Design of Registring at all, or in any thing gratifie or benefit the people, who will thereby have their charge and trouble as greatly as needlesly multiplied, and their Laws by degrees reduced into many little Courts and *Judicatories* which will be as much for their good as those many grievances and oppressions heretofore put upon them by Lords and men of power and great Estates, Sheriffs in their County Courts and Tornes, Bailiffs and Stewards, in the Court-Leets, and Court Barons, long agoe heavily complained of, and by the care of many good Acts of Parliament, at length remedied, or bring the Commonalty of our more happy *England*, into that servile and sad Condition of the Common people of *France*, who having at one and the same time many perpetual Parliaments, or Courts so called, and a multitude of *Baillages Seneschauses resorts*, and petty Jurisdictions, with their numberless Presidents and Lieutenants *Criminel* and *Civil*,

vil, and as many Appeals as their Contentions can possibly purchase, are not seldom in the Chase of one another through their many inferior Courts to the Superior or *Dernier resort*, with as little money left them as hopes of gaining any thing more then a repentance, brought to a loss of much of their time, as well as their estates.

And will gain as much hereby, as to their needless charges, as they would do if all the people of *England* from one year old to Fifty, should be ordained to buy and weare Spectacles at more then the ordinary rate, because such as live to be Fifty or threescore and upwards, may have need to benefit and help their Eyes thereby, or as the *French* do by way of imposition or *Gabel* of a certain proportion of *Salt* enforced upon every Family at the Kings Rates, whenas many of the Common people have more salt then meat.

Or as to have it ordained that every Town and Village shall all along the High-wayes in the bounds of their Parishes keep a strong and constant Watch

and

and Ward, every day but *Sundayes*, betwixt Sun-rising and Sun-setting, to prevent Robberies and catch Thieves, because sometimes upon Actions brought upon the Statutes of *Winchester*, and for Hue and Cry, the Inhabitants of some few hundreds are but seldom enforced to pay for the money, goods, or Cattel lost, or that all Villages and Towns, not having (as there are very many) any *Physitians* to cure diseases, and *Apothecaries* with their Shops abundantly furnished with all manner of medicaments, to prepare and administer them, should keep and maintain *Physitians* and *Apothecarie* at the charge of the Inhabitants or the publick, because that one part of three, or a very great part of the people do die sooner then otherwise they would do, or languish under long and incurable pains and Sicknesses, and expend much money to no purpose for want of them, or skill, or care to prevent diseases, or not seeking a cure by *Physitians* or *Apothecaries* dwelling far off before it be either a great deal more difficult or chargeable, or impossible to be helped.

And

And as great advantages touching the preſervation of their happy and well known and approved Laws and Liberties, as the now and long agoe wandring, and everywhere diſpiſed *Jewes*, had by Crucifying their *Saviour* and letting looſe *Barabbas* the Murtherer.

For the hoped for importation, or our imitation of any ſuch Forreign Cuſtoms, or the expected fruit and benefit by this deſign of Regiſtring (whatſoever they ſhall be fancied to be beforehand, until it ſhal otherwiſe be lamentably experienced) will never be able to Ballance or Recompence the charges of one *hundred thouſand pounds per Annum*, pretended to be raiſed for the King as a conſtant and perpetual Revenue by that way of *Regiſtring* and *Nine* or *ten hundred thouſand pounds per annum*, or a *million* of *Engliſh* monies, which the people muſt pay for unneceſſary *Regiſtring* of many of their Deeds, Writings, and Contracts more then they did heretofore; & thoſe other great diſturbances, ruines, and alterations in the Nation, troubles and charges in all mens

Eſtates,

Estates, Businesses, and Affairs, which will arise and happen by it; when as the *Registring*, supposed to be such an Antidote against *Incumbrances* shall prove to be the cause, not of a few, but very many mischiefs & inconveniences, not incombrances and needless charges only in some one single case of a hundred, or five hundred, and seldom, but for ever upon all the people of *England*, not upon a part onely of their Estates, but all, and not upon all men for life, or in tail, or for a short time, or but upon some of their Generations, but until some good Angel or Act of Parliament, by the mercy of him which dwelleth on High shall be sent to our Pool of *Bethesda*, to recal and cure them, remain as an estate in Fee-*Simple*, and perpetuity to all our posterities.

Quæ procul a nobis Flectat Deus ipse Gubernans
Et Ratio potius quam res persuadeat ipsa.

FINIS.

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